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September 17, 1999

VIA ELECTRONIC COMMENT FILING SYSTEM

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
Room TW-A324
445 Twelfth Street, SW
Washington, D.C. 20554

Re: Calling Party Pays Service Offering in the Commercial Mobile Radio Service, WT Docket No. 97-207

Dear Ms. Salas:

Pursuant to the Notice of Proposed Rulemaking in the above-captioned matter, enclosed please find an electronic original of the Joint Comments of the Ad Hoc Telecommunications Users Committee and ACUTA: The Association of Telecommunications Professionals in Higher Education. These Joint Comments are being filed via the Federal Communications Commission's Electronic Comment Filing System ("ECFS").

If you have any questions regarding this filing, please do not hesitate to call me at (202) 857-2560.

Sincerely,

Kevin DiLallo

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Calling Party Pays Service Offering	)	WT Docket No. 97-207
in the Commercial Mobile Radio Services	)	

JOINT COMMENTS OF THE AD HOC TELECOMMUNICATIONS USERS COMMITTEE AND ACUTA: THE ASSOCIATION OF TELECOMMUNICATIONS PROFESSIONALS IN HIGHER EDUCATION

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September 17, 1999

Summary

The Ad Hoc Telecommunications Users Committee ("Ad Hoc") and ACUTA: The Association of Telecommunications Professionals in Higher Education ("ACUTA") share a common objective in this proceeding: to persuade the Commission not to adopt any Calling Party Pays ("CPP") proposal unless it includes safeguards allowing large telecommunications users, including those represented herein, to make meaningful, fully informed decisions before incurring charges for calls from their premises to CPP numbers, which decisions are -- and should be here -- the *sine qua non* for subscriber responsibility for telecommunications charges.

The longstanding principle of contract privity requires that the party *billed* for a CPP call have, at a minimum, the opportunity to make a meaningful, informed decision whether or not to incur the charge associated with the call; otherwise, the billed party can not be held responsible for the charge. The Commission has asked only whether privity is necessary between a CPP carrier and the party who *places* a CPP call. For institutional subscribers, this is the wrong question. Such subscribers may be billed for CPP calls placed from their facilities by others; therefore, the pivotal issue for institutional subscribers is whether the *billed* party, not the *calling* party, is in privity with the CPP carrier imposing the charge. Such privity may be (but is not necessarily) established by the existence of an opportunity for the subscriber to make a fully informed, meaningful decision whether or not to incur CPP charges before such charges accrue.

If institutional telecommunications users are unable to make such decisions before incurring CPP charges, they will be potentially liabile for monumental CPP charges, estimated to be as high as $7 Billion annually, in the aggregate. Because almost all medium and larger institutional subscribers use PBXs or Centrex systems, those systems must be capable of screening for, blocking, and recording call detail for, all CPP calls placed through them; otherwise, the subscribers will have no control over CPP calling, and will have enormous financial exposure for unauthorized, uncollectable, and unbudgeted CPP charges.

Presently available PBX and Centrex systems can recognize CPP numbers, and implement subscribers' processing instructions for calls to such numbers only if CPP numbers have unique components that distinguish them from non-CPP numbers. For years, subscribers have managed their telecommunications costs by programming their PBXs and Centrex systems to process calls according to the subscribers' instructions, based on the call rating function of most North American Numbering Plan ("NANP") numbers. In the same way, and at virtually no cost, users could program their PBXs and Centrex systems to recognize calls to CPP numbers, if they are distinguishable for non-CPP numbers.

Although a variety of potential numbering solutions exist, the most cost-effective approach would be to assign unique Service Access Codes ("SACs") (sometimes known as "Service Area Codes") to CPP subscribers. The assignment of CPP-specific SACs would give institutional users a cost-effective,

reliable means of controlling the use of their premises to place CPP calls, and thereby limiting their risk of exposure to unwanted CPP charges.

Aside from a numbering approach, the only alternative that even theoretically offers some relief to institutional users is the adoption of a signaling-based plan. Such a plan would require the carrier receiving a call to determine whether the call is to a CPP number, and to send a signal, including rate information, to the originating carrier, which would relay the information to the caller and, where applicable, the caller's PBX or Centrex. This proposal is far inferior to a numbering approach for many reasons. Principally, current and reasonably foreseeable PBX technology will not accommodate such signaling, according to representatives of major equipment vendors. Thus, existing PBXs would have to be upgraded or replaced at substantial cost to users, estimated to be between $5 Billion and $10 Billion in the aggregate, depending on several variables -- billions more than a CPP-specific SAC approach. In addition, a signaling approach would require CPP and other terminating carriers to ensure the prompt and accurate transmission of necessary information, a responsibility that increases risks such as miscommunication and untimely delivery of information, but which is absent from the CPP-specific SAC approach.

The Commission should closely examine some of the principal assumptions underlying its proposals in the NPRM, and it should consider its own previous approach to charges imposed on a calling party by a carrier that the called, rather than the calling, party has selected.

The Commission has suggested that adoption of CPP will stimulate wireless usage in this country, based on the experience with CPP in other countries. Because the Commission seeks to increase domestic wireless usage, it seems to view the adoption of CPP as a means of achieving that objective. Actual experience abroad provides no support for, and indeed refutes, this line of reasoning.

Numerous factors other than CPP have influenced the growth of wireless service in foreign countries. The sheer number and significance of these factors make it impossible to isolate CPP as the stimulus for wireless growth in those countries. Moreover, conditions that are far more material than the existence of CPP are present in foreign countries and overshadow the role of CPP as a cause of wireless growth. Notably, however, in each foreign country we have surveyed, CPP calls are identified by distinguishable numbering schemes, and the number of wireless carriers is far smaller than in the United States.

Finally, the Commission should consider in this proceeding its reasoning in the casual calling context with regard to protection of callers from excessive charges by carriers they do not select. Given the obvious similarities between the two scenarios, the Commission is obligated to at least address its earlier approach.

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
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JOINT COMMENTS OF THE
AD HOC TELECOMMUNICATIONS USERS COMMITTEE
AND
ACUTA: THE ASSOCIATION OF TELECOMMUNICATIONS
PROFESSIONALS IN HIGHER EDUCATION

The Ad Hoc Telecommunications Users Committee ("Ad Hoc" or the "Ad Hoc Committee") and ACUTA: The Association of Telecommunications Professionals in Higher Education ("ACUTA") submit these Joint Comments on the Commission's Notice of Proposed Rulemaking in the captioned proceeding, FCC 99-137 (released July 7, 1999) ("NPRM").

INTRODUCTION

The members of the Ad Hoc Committee are some of the nation's largest corporate users of telecommunications services, collectively spending billions of dollars annually on telecommunications services. As a group, the Ad Hoc Committee's members employ over a million workers.

ACUTA represents some 825 colleges and universities through their telecommunications administrators. On average, ACUTA's member institutions

furnish telecommunications services and facilities to over 2,509 residential students[1] and over 1,900 full-time equivalent faculty and staff.

As large, institutional users of telecommunications services, the members of Ad Hoc and ACUTA share compelling interests in the outcome of this proceeding. In particular, Ad Hoc and ACUTA are concerned that their members will face significantly increased financial liability for telecommunications charges if the Commission adopts a Calling Party Pays ("CPP") service option without appropriate safeguards to allow large users to restrict calls from their facilities to CPP numbers.

DISCUSSION

I. ADOPTION OF A CALLING PARTY PAYS SERVICE OPTION POSES SIGNIFICANT FINANCIAL RISK TO LARGE USERS OF TELECOMMUNICATIONS SERVICES.

The Commission has correctly recognized that "businesses need to restrict the ability of telephone users to make various types of billable calls from certain lines . . . ."[2] The corporations, colleges, and universities represented in these Joint Comments make large numbers of outgoing lines available to their employees, students, and (occasionally) visitors, and therefore must control the use of those lines to minimize their potential liability for unforeseen, unauthorized, and unrecoverable telecommunications charges.

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[1] Approximately half of ACUTA's represented institutions have at least 4,600 enrolled students each.

[2] NPRM at ¶ 46.

For example, corporations (and other large and medium-sized businesses)[3] typically use either a PBX or a Centrex system that can be programmed to block calls to pay-per-call (*i.e.,* 900) numbers and to record the called number and duration of each long-distance call placed over it. Almost all colleges and universities use PBXs or Centrex systems that perform similar functions. Educational institutions may also program their PBXs or Centrex systems to block long-distance or toll calls placed from telephones in public areas (such as dormitory halls) unless callers use a calling card or some third-party billing arrangement (*e.g.,* calling collect).

Programming a PBX or Centrex switch for these purposes is relatively simple, since such devices can readily identify long-distance calls by screening for an area code or NXX code outside the caller's local calling area; and they can spot calls to pay-per-call services by the "900" Service Access Code ("SAC")[4] assigned to such services. A PBX or Centrex system that has been programmed in this way can also require callers placing long-distance calls to enter a client, department, or similar accounting code before it will transmit the digits for such calls. Many businesses and educational institutions use these codes to track their long-distance usage, recover their telecommunications charges from the appropriate clients, or assign the charges to the appropriate departmental budgets. Absent controls such as these, unauthorized, unaccountable, and/or unrecoverable telecommunications

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[3] Even many small businesses use PBX or Centrex arrangements, and therefore may have at least some of the concerns regarding CPP as the organizations represented in these Joint Comments.

[4] In the NPRM, the Commission refers to codes such as these as "Service Area Codes." NPRM at ¶ 41.

charges could easily accrue and quickly break the budget of any institution, whether it is a small, non-profit college or a multi-national Fortune 500 company.

A CPP service option could place the members of Ad Hoc and ACUTA -- and many other organizations -- at risk for exponentially greater telecommunications charges. If CPP numbers are indistinguishable from other local numbers, PBXs and Centrex switches will not be able to recognize them and either block, restrict, or record call detail for, calls to such numbers. Consequently, large users will be unable to control the use of their telecommunications services to place calls to CPP numbers, and may be saddled with enormous uncollectable and/or unaccountable charges for such calls.

Through a Station Message Detail Recording ("SMDR") system associated with its PBX or Centrex, an organization can easily associate the cost of a toll call with the originating station line. This association of charges with specific stations is necessary for effective cost management of telecommunications costs in a large organization. For businesses, associating calls with particular divisions or departments is used for budgeting and charge-back purposes. In college and university environments, call tracking is used to ensure that the student or employee placing the call can be identified so that an appropriate bill for the charges that call incurred can be generated.

If CPP is implemented in a manner that makes the phone number of a CPP subscriber indistinguishable from a wireline number, however, a PBX will be unable to recognize the call as incurring a toll. The PBX will transmit the dialed CPP numbers, permit the call to connect, and the charges will be incurred. The

bill, however, will only associate the charges with the trunk line and the owner of the trunk will have no ability to associate the charges with a particular station. In a large organization with thousands of employees or in a university environment with large, transient student populations, it becomes difficult, if not impossible, to find out who made the call from the information contained on the monthly invoice.

If implemented without proper safeguards, CPP threatens to exacerbate an existing problem. A recent survey conducted by ACUTA reveals that 75% of the member institutions responding to the survey encounter unauthorized charges on their telecommunications every month.[5] Furthermore, its members must dedicate approximately eleven hours per month on average to address the issues associated with the billing of unauthorized charges.[6]

A. A Large Variety of Users Face Potential Adverse Consequences if CPP is Adopted without Safeguards.

The potential cost of implementing CPP is greatly increased by the sheer number of industries and organizations that would be directly affected by the reversal of charges caused by a CPP regime. Among the groups most likely to be affected are corporations, hotels and motels,[7] colleges and universities, and federal and state government agencies. In essence, any entity with multiple lines accessed by multiple users will likely incur unauthorized charges on its monthly invoice unless there is a means for tracking or blocking calls to CPP subscribers.

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[5] ACUTA, *Report on Survey of Unauthorized Telecommunications Charges,* Frequency of Unauthorized Charges on Monthly Bill, (1999).

[6] *Id.* at Staff Hours Per Month Spent Dealing with Unauthorized Charges.

[7] *See, e.g.,* Comments of the American Hotel & Motel Association in WT Dkt. No. 97-207 (filed August 18, 1999).

B. The Aggregate Cost to Users of CPP Calls is Difficult to Determine but Could Reach $7 Billion.

Despite efforts to determine the potential financial exposure their members may face from unauthorized or unrecoverable CPP calls, uncertainties about CPP rates and the number of wireless subscribers who will elect CPP make accurate estimates extremely difficult.

In response to the Commission's request for information in paragraph 46 of the NPRM, however, Ad Hoc and ACUTA have developed an estimate of the range of costs that would be transferred to calling parties under CPP. Based on an average nationwide wireless rate of $0.28 per minute of use ("MOU")[8] and a wireless call volume of 118.8 billion minutes per year,[9] and assuming that CPP calls will account for between 10% and 20% of all wireless minutes,[10] calling parties could assume the burden of paying an estimated $3 billion to $7 billion per year in CPP charges.

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[8] The average wireless rate of $0.28 was determined by taking the average local monthly wireless bill of $39.43, *see* Cellular Telecommunications Industry Association, *Wireless Industry Posts 'Astonishing' Subscriber Increase of 13,897.028 New Subscribers in 1998* (April 1, 1999) <http://www.wom-com.com>, and dividing by 143 minutes which is the average number of minutes of use per month per wireless subscriber, *see* FCC, *Fourth Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, FCC 99-136 (June 24, 1999) ("FCC CMRS 1998 report") at 25.

[9] The estimate of wireless volume per year was derived by multiplying the average number of minutes per month per wireless subscriber by the total number of wireless subscribers, and then by 12 [*i.e.*, 143 x 69,209,321 x 12]. *See* FCC CMRS 1998 report; Cellular Telecommunications Industry Association, *CTIA's Semi-Annual Wireless Industry Survey Results*, (December 1998) <http://www.wow-com.com/wirelesssurvey/1298datasurvey1.gif>

[10] Estimating the percentage of subscribers who will switch to CPP is difficult; however the wireless carriers have represented that there is significant pent-up demand for CPP service. *See, e.g.,* Reply Comments of AirTouch Communications, Inc. on NOI, in CC Docket No. 97-207 (Jan. 16, 1998) ("AirTouch NOI Reply Comments") at ii; Reply Comments of Sprint Spectrum L.P. d/b/a Sprint PCS to NOI in CC Docket No. 97-207 (Jan. 16, 1998) ("Sprint NOI Reply Comments") at 1-2.

This estimate is based upon two very conservative assumptions: First, the estimated CPP charge per MOU is assumed to equal the existing average rate per MOU for a wireless call of $0.28. The CPP charge per MOU could well be set much higher than that, given that mich less competitive pressure will exist to keep rates low for inward calling. Second, the number of minutes per year used in the calculation reflects unstimulated minutes. Wireless providers have asserted that the implementation of CPP charges will greatly stimulate wireless calling volumes.

As the markets for local, long distance, and wireless services have gradually become more competitive, users now enjoy increasing choices among carriers with services offered at gradually decreasing rates. Large users of telecommunications services dedicate significant resources to the negotiation of rates, terms and conditions with their carriers to obtain the most cost-effective services available. If implemented without appropriate safeguards, however, CPP would threaten to undermine downward cost pressure on wireless carriers by transferring the cost of wireless service away from the party responsible for causing service costs. With CPP, the called party has the greatest ability to affect the rates the CMRS provider charges, and the calling -- and paying -- party can not affect those rates by “voting with its feet” and obtaining service from a CMRS provider with more competitive pricing. This turns Commission policy on its head.

II. COMMISSION PRECEDENT AND THE PRINCIPLE OF CONTRACT PRIVITY REQUIRE AND SUPPORT THE ADOPTION OF SAFEGUARDS ALLOWING USERS TO CONTROL CALLS TO CPP NUMBERS.

The adoption of CPP would mark a departure from past Commission precedent and the longstanding principle of privity of contract. While the adoption of safeguards such as those proposed herein may not wholly justify such departures, the implementation of CPP without such safeguards would only highlight CPP's inconsistency with past policies and practice and make CPP more difficult to rationalize.

A. The Commission's Earlier Reasoning Regarding Excessive Terminating Access Charges Is Applicable Here, Because in Both Cases the Calling Party Pays Charges Imposed by a Carrier Selected by the Called Party.

In the *Access Charge Reform* First Report and Order,[11] the Commission stated that

> unlike originating access, the choice of an access provider for terminating access is made by the recipient of the call. The call recipient generally does not pay for the call and, therefore, is not likely to be concerned about the rates charged for terminating access. We suggested [in the *Access Charge Reform* NPRM[12]] that neither the originating caller nor its long-distance service provider can exert substantial

[11] *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges,* CC Dkts. Nos. 96-262, 94-1, 91-213, 95-72, First Report and Order, 12 FCC Rcd 15982, 16135, ¶ 349 (1997), *subsequent history omitted.*

[12] *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, Usage of the Public Switched Network by Information Service and Internet Access Providers,* CC Dkts. Nos. 96-262, 94-1, 91-213, 96-263, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, 11 FCC Rcd 21354 (1996), *subsequent history omitted.*

> influence over the called party's choice of terminating access provider.

The Commission had earlier expressed concerns that "[b]ecause the paying parties do not choose the carrier that terminates their interstate calls, competitive LECs [as well as incumbent LECs] potentially could charge excessive prices for terminating access."[13] In the First Report and Order, the Commission concluded that regulation of ILECs' terminating access charges was necessary because competition was insufficient to "address the potential that [ILECs] could charge unreasonable rates for terminating access."[14] It expressed doubt that "a significant competitive impact would result from changes in calling patterns between pairs of callers."[15]

These same concerns are present in the context of calls to CPP numbers, for which the party who pays for the call is not the party who selects the wireless carrier that charges for the call. Indeed, the Commission acknowledged in the NPRM[16] that

> [d]irect competitive pressure on the rate does not exist in the case of a call to a CPP subscriber, . . . because the caller does not select the carrier and does not have the ability to switch to a different carrier

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13 *Access Charge Reform* NPRM, *supra,* note 12, 11 FCC Rcd at 21476, ¶ 279 (footnote and citations omitted).

14 *Access Charge Reform* First Report and Order, *supra,* note 11, 12 FCC Rcd at 16136, ¶ 353. In contrast, the Commission concluded that it was unnecessary to regulate CLECs' terminating access charges. The Commission explained that the record before it indicated that CLECs' rates were equal to, or lower than, those of ILECs, and that competitive pressures would discipline CLECs' rates going forward. *Id.,* 12 FCC Rcd at 16140, ¶ 360. There is no basis for either of these rationales in the context of CPP.

15 *Id.,* 12 FCC Rcd at 16136, ¶ 353.

16 NPRM at ¶ 53.

> to obtain a better rate for completing the call. The caller can only elect to complete the call at the price charged by the CMRS carrier that serves the called party, or terminate the call prior to its completion to avoid any charges. In the CPP context, there is only indirect competitive control on these rates, in that the CPP subscriber might ultimately switch to a different carrier with a better rate for incoming calls if excessive rates charged by its carrier result in the CPP subscriber not receiving its incoming calls, or might ultimately terminate the CPP option.

Although the Commission squarely addressed these considerations (in the *Access Charge Reform* First Report and Order) with respect to terminating access charges, here, it has inexplicably failed to mention -- much less distinguish -- either its reasoning or its conclusions in that context. These omissions should be fatal to the adoption of CPP. If the Commission adopts CPP, it should, at the very least, explain its departure from the reasoning in the *Access Charge Reform* proceeding, specifying why it is less concerned about excessive CPP rates than about excessive terminating access charges.

The adoption of safeguards (such as those proposed herein) that would allow users to restrict calls to CPP numbers could provide at least some justification for the Commission's apparent change of course. If parties who would otherwise pay for CPP calls (*e.g.*, institutional subscribers), could block, or have some hope of recovering the charges for, such calls, they would have at least minimal alternatives to being unwittingly subjected to excessive CPP charges.

Indeed, the ability of large users to block CPP calls would itself help to constrain CPP price levels: If CPP charges are reasonable and generally

comparable to price levels associated with wireline calls for which PBX users are customarily charged, users would likely be more willing to pay for CPP calls and to permit such calls to be completed through their systems. If CPP price levels are set (as some trial rates have been) in the 30-to-40-cents-per-minute range, it is highly unlikely that corporate, educational, and other institutional users would find such price levels acceptable and be willing to allow CPP calls to be completed.

In short, the availability of a reasonable blocking option for subscribers who could be charged for CPP calls should be a prerequisite to the adoption of CPP.

B. The Absence of Privity Between the Party Paying for a CPP Call and the Carrier Setting the Rate for the Call Would Be Unjustifiable in the Case of Large Users Who Have No Role in the Decision to Place the Call.

The Commission has requested comment on whether its proposed verbal notification, including rate information, prior to a CPP call would be sufficient to establish a contractual relationship between the party placing the call and the wireless CPP carrier, if the calling party decides to complete the call following the notification.[17] Fundamental fairness precludes the Commission from adopting CPP without an irrefutable demonstration that every party who is charged for a call to a CPP number will have privity of contract with the wireless carrier that sets the charge.

Such privity can not be established in the case of large users, such as those represented in these Joint Comments, unless they have some role in the

[17] NPRM at ¶ 52.

decision whether to place CPP calls. Where a call originates from a business or institution where the *calling* party may not be the *billed* party, the *billed* party, *i.e.,* the institutional subscriber, must be in privity with the wireless carrier imposing CPP charges or be free from any obligation to pay those charges. Privity in this instance requires that the subscriber -- again, the billed, not necessarily calling, party, have *both* complete information regarding the charges associated with a call *and* a meaningful opportunity to prevent calls based on that information. Even if a large user has rate information, if it does not have a reasonable opportunity to block calls to CPP numbers, it can not be deemed to have agreed to pay the charges for such calls.

Even if the Commission concludes that some form of notification establishes privity between a CPP carrier and an individual *caller*, it does not follow that such notification establishes privity between the CPP carrier and the *subscriber charged for the call*. Although it is critical, the Commission has not acknowledged the need for the latter form of privity in the NPRM.

The absence of *subscriber* privity is glaring in the case of large users, who may be charged for all CPP calls placed from their facilities. The individual caller, not the institutional subscriber, will hear the notification and decide whether to place a CPP call. Unless the institutional subscriber has a reasonable option for blocking or otherwise controlling calls to CPP numbers, it may not be

deemed to have consented to, and therefore has no legal obligation to pay, the charges for such calls.[18]

If the Commission adopts the safeguards (such as a unique CPP SAC) proposed herein, some justification might (but will not necessarily) exist for finding privity between institutional subscribers who fail to block CPP calls from their premises and the carriers who charge for such calls. Without reasonably available safeguards to give all subscribers a meaningful opportunity to decide whether or not to incur CPP charges, the Commission may not adopt a CPP service option.

III. THE COMMISSION SHOULD IMPLEMENT CPP ONLY IN A MANNER THAT WOULD PERMIT THE PAYING PARTY TO TRACK AND BLOCK CPP CALLS FROM ITS PREMISES, WHICH SIGNALING "SOLUTIONS" WOULD NOT ALLOW.

The Commission has asked whether signaling-based solutions, rather than the use of telephone numbers to convey rating information, are a feasible alternative to support the blocking or tracking of CPP charges.[19] When numbers are used to convey rating information, as is the case today, the calling party (whether an individual consumer or a mechanized system such as a PBX) can

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[18] In the NPRM, the Commission referred to its earlier decision that, under some circumstances, privity may be implied in the case of some casual calling services. NPRM at ¶ 51 & note 130 (citing *Policy and Rules Concerning the Interstate, Interexchange Marketplace -- Implementation of Section 254(g) of the Communications Act of 1934, as amended,* CC Dkt. No. 96-61, Order on Reconsideration, 12 FCC Rcd 15014 (1997) ("*Casual Calling Reconsideration Order*") at 15031-32, ¶ 28). This decision is inapposite to the issue of subscriber privity for large users, which the Commission did not address. Indeed, subscriber privity is irrelevant to casual calling services, which the Commission has described as "services such as collect calling, the use of a third-party credit card, or dial-around through the use of an access code." *Casual Calling Reconsideration Order,* 12 FCC Rcd at 15026, note 74. Such services do not pose the same risk of financial exposure that CPP would pose to subscribers whose facilities are used to place a call.

[19] NPRM at ¶ 47.

map the called number to a geographic location or special service category, and, on that basis, can determine how the call will be charged. Under a signaling-based rating scheme, the rating status of the call (*e.g.*, local or toll) would be determined by the carrier receiving the call, which would transmit the information back to the originating carrier utilizing some type of Signaling System 7 (or equivalent) protocol. The originating carrier would then be required to transmit this information to the caller, and, where the call originates from a PBX or Centrex station line, the signaling information would need to be in a form that the PBX or Centrex equipment can receive, translate, and process.

This approach, while theoretically feasible, is not currently viable, nor is it likely to become viable in the near future. Communications between certain of Ad Hoc's and ACUTA's members and leading equipment vendors indicate that none of the major PBX vendors currently manufactures a system that can recognize signaling that would notify the PBX that a CPP call is being placed, enabling the PBX to record or block the call. Furthermore, these vendors have not indicated that any such product offerings are forthcoming. Even if such product offerings do become available, the average technology refresh cycle indicates that next-generation PBXs would not be widely deployed in the private sector for at least 5 years, and in the educational sector (where PBXs tend to have a longer lifespan), for at least 10 years.

According to industry statistics,[20] some 6.6 PBX and Centrex trunks are currently in use nationwide, translating roughly to 66 station lines. Even at an

[20] FCC, Preliminary Statistics of Communications Common Carriers (as of December 31, 1998), Table 2.10, "Operating Statistics of Reporting Local Exchange Carriers." Although the

estimated upgrade cost of only $50 to $100 per station line, PBX users would collectively incur enormous costs to upgrade their PBXs to interpret signaling that includes call rating information. Those whose PBXs could not be upgraded -- and thus would have to be replaced by equipment capable of interpreting and processing call rating-type signaling -- might spend $200 - $300 per line, if not more. Depending on the ratio of upgradable to non-upgradable equipment, the aggregate cost to PBX users of accommodating call-rating-type signaling could run as high as $5- to $10 billion. Business, educational, and other institutional subscribers should not be forced to incur costs of this magnitude merely to accommodate a CMRS option they did not elect and, indeed, should not be forced to bankroll when other parties elect it.

It would be poor public policy and a serious misallocation of economic resources to require business, educational, and other institutional users to bear such a heavy financial commitment to obtain little, if any, benefit themselves. The significant resources required to upgrade PBX capabilities far outweigh the claimed (and at best, relatively small) benefit that might be gained by using CPP numbers that are indistinguishable from non-CPP numbers, a speculative benefit that the wireless CPP subscriber might enjoy but for which it will incur no financial responsibility.

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data is reported for both PBX and Centrex trunks, we have assumed that the majority of the trunks of associated with PBXs.

IV. THE MOST EFFICIENT MEANS FOR IDENTIFYING WIRELESS NUMBERS AS BEING SUBJECT TO CPP CHARGES IS THROUGH THE USE OF UNIQUE SERVICE ACCESS CODES.

Telephone numbering systems, such as the North American Numbering Plan ("NANP") perform two basic functions — call *rating* and call *routing*. Under the present structure of the NANP (with one major exception), the applicable charges for a given telephone call can always be determined unambiguously on the basis of the *called* telephone number. For telephone numbers with a *geographic* identity, the Area Code and NXX code, constituting the first six digits of the called number, uniquely identify the geographic location, including the jurisdiction within which the called number resides, thereby permitting the caller to determine (a) whether the call is interstate or intrastate, (b) whether the call is local or toll, and (c) if a local or toll charge applies, the precise amount of that charge.

In most cases, the NPA-NXX codes included within the subscriber's local calling area, as well as the applicable charges for local and intraLATA toll calls, are published in local white pages telephone directories. For interLATA calls, the customer can readily obtain this information from any of the various interexchange carriers that offer long distance service, including the carrier the subscriber selects for "presubscription" (the "Primary Interexchange Carrier" or "PIC"). Calls without a specific geographic location identity are assigned numbers in so-called Service Access Codes ("SACs") that take the place of geographic area codes in the NANP.

For example, calls to the 800, 888 and 877 SACs are toll-free to the calling party, with the applicable charges for such calls being paid by the called party, who is the 800/888/877 customer. Calls to the '700' SAC are routed to the IXC selected by the calling party (either as the PIC or via dial-around 101XXXX), and are used to invoke special services furnished by that carrier for which special charges apply. Calls to '900' information services numbers are routed to the carrier selected by the '900' customer (the "sponsor") and are subject to special charges established by the sponsor.

Calls placed to SACs are the exception to the call rating scheme described above. Except for the toll-free SACs, for which no charge to the calling party applies, calls to other SACs (*e.g.*, '900') are established for each specific 10-digit number by the sponsor of the information service. Unlike the case of geographic numbers, where the charge can be unambiguously determined from the called number, it is not possible to determine, *a priori* on the basis of the called number, precisely what the charge will be. Callers to SACs such as '900,' however, are on notice *in advance of placing the call* that additional charges will apply, and the Communications Act[21] as well as the Commission's Rules[22] require sponsors to disclose publicly all relevant pricing information in their advertisements or promotions for information services accessed via '900' numbers.

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[21] 47 U.S.C. § 228.

[22] *See* 47 C.F.R. §§ 64.1501- 64.1504, 64.1509-64.1510.

The use of the '900' SAC for all such calls alerts callers to the incidence of such additional charges, and permits callers to adopt measures designed to minimize or eliminate altogether the imposition of such charges on telephone accounts for which they may be responsible. For example, many LECs offer "900 Blocking" to residential and business customers, preventing outright the origination of all such calls from the blocked line. Business PBXs, payphones and hotel phone systems can similarly block such calls, either because the customer (*e.g.*, the business or institutional user) does not wish to incur such charges, or (in the case of payphones and hotels) the inability of this equipment to obtain the ultimate charge for the call in real-time, *i.e.*, in time to actually collect the charge from the payphone user or hotel guest.

The use of SACs to designate certain telephone numbers as being subject to additional charges is an efficient and effective means of protecting customers from unexpected or unwanted costs, and should be mandatory for use with wireless calling party pays numbers. If CPP numbers were simply intermixed with "ordinary" geographic telephone numbers, there would be no way for a subscriber's PBX or Centrex system to determine, *before transmitting the dialed number,* whether an additional charge will apply to the call. Subscribers must be able to block the transmission of CPP numbers by their PBXs and Centrex systems because, once such a number is transmitted, the subscriber's risk of incurring unauthorized CPP charges increases significantly.[23] To

[23] There are several reasons for the increased risk. One is the "negative option" that has been proposed, whereunder a CPP call would automatically be connected -- and begin to accrue charges -- if the calling party fails to hang up in time. The better alternative for users would be an affirmative option that would require the calling party to dial one or more numbers to affirmatively

accomplish pre-transmission blocking of CPP calls (and to implement any call screening, charge-back, or other special arrangements), PBXs and Centrex systems require some mechanized method of identifying CPP numbers.

As noted above, arranging for PBXs to screen and possibly block calls to specific SACs, such as those associated with '900' services and with wireless numbers subject to CPP charges, is a relatively simple and straightforward matter. Even the simplest electronic PBXs have the capability to maintain small databases of area codes and NXX codes that are to receive some special treatment, such as special routing or blocking. Hence, assignment of all CPP numbers to one or more CPP-specific SACs would PBXs and similar subscriber equipment to quickly and unambiguously identify CPP numbers as subject to additional charges.

PBXs could be programmed to recognize CPP-specific SACs at virtually no cost, in contrast to the $5 billion to $10 billion estimated cost of upgrading PBXs to accommodate a signaling-based solution.[24] But even the latter would be preferable to adoption of CPP with no comparable user safeguards, in which case users would incur far greater costs due to the because their PBXs would be unable to identify CPP calls.

A theoretical alternative to the use of one or more CPP SACs would be to assign specific CPP NXX codes within geographic area codes. However, there

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indicate his acceptance of the rates and other terms of the call. A second reason that a subscriber's financial exposure multiplies after a CPP number is transmitted is that the party placing the call is often not the party that will be billed for the call; if the calling party is reasonably confident that he will not be required to pay for the call, he will have little, if any, economic incentive to decline to connect a CPP call on the basis of the rate.

[24] *See supra,* Section III.

are a number of reasons why this approach should not be adopted. First, it would not be possible or practical, for example, for PBXs to screen for CPP calls on the full 6-digit NPA-NXX basis, because the quantity of individual number sequences that can be maintained in PBX routing/screening tables is often extremely limited. Second, even if a large number of 6-digit NPA-NXX sequences could be maintained in the PBX, the PBX owner would bear the responsibility of keeping abreast of all new CPP NPA-NXX codes that are cut into service or converted from caller-pays to calling-party-pays use, and for updating the PBX routing/screening table to reflect those changes. PBX users would be confronted with both the cost of acquiring this information and with the administrative costs and burdens of keeping their PBXs up-to-date. Theses would be monumental tasks; across the country new CPP NXXs could be created or converted from called-party-pays status on a daily basis.

Aside from these costs and administrative burdens, the use of CPP-specific NPA-NXX combinations would still not permit the use of the same NXX code for mixed called-party-pays and calling party pays wireless phones, or permit local number portability as between wireless and wireline carriers.

Another possible solution would be to place the burden of identifying and blocking CPP calls upon the CMRS carrier. Here, the CMRS carrier would identify the call as subject to CPP charges in the SS7 "Initial Address Message" ("IAM") or equivalent that it returns to the originating LEC. The originating LEC would be required to offer any requesting customer a blocking service that would screen for and block all CPP call attempts originated from the customer's wireline

service. The costs of such CPP blocking could be recovered by the ILEC either through the access charges it would impose on the CMRS provider for originating the call and delivering it to the CMRS provider, and/or through the billing/collection services it would provide to the CMRS provider in connection with CPP calls. In no event should the wireline customer be forced to pay for such blocking, since it is the CMRS provider offering CPP, not the wireline customer, that is the "cost causer" in this instance.

The problem with a blocking solution of this type is that it would necessarily block *all* calls originated from the blocked wireline access line, and would not permit the user, through the PBX, to determine on a call-by-call basis whether or not the CPP call will be permitted. It is not uncommon for PBXs to define multiple "classes of service" each with different outward calling privileges. Such differentiation might be based upon the location or job function of the employee in whose office a particular PBX station line is located. However, if all CPP calls are blocked, the PBX customer could permit some calls to CPP to originate from specific PBX stations, only by bifurcating the outward trunk group (*i.e.*, blocking one group, but not the other), and administratively assigning individual station lines to the applicable trunk group. In addition to the increased administrative burdens this solution would impose, it would also require the PBX to customer subscribe to additional trunks, since the per-trunk traffic capacity of each of the now-smaller trunk groups would be diminished.

Some wireless parties have argued against the use of a CPP-specific SAC by citing the cost of reprogramming affected individual wireless handsets. While

such reprogramming might in the past have required an on-site visit by the customer or the CMRS provider, modern digital handsets can be reprogrammed remotely, perhaps over the air, or certainly through a brief telephone contact with a service representative who can "walk the customer through" the reprogramming keystrokes. The costs involved are minimal, and would in any event be limited to existing subscribers converting to CPP service; the cost of providing a wireless handset with a CPP SAC number would be no greater than with an ordinary NPA-NXX number.

The creation of CPP-specific SACs would be relatively easy for the FCC to implement, because the basic assignment mechanism is already available. Moreover, since the Commission has determined that CPP is a CMRS service, there would be no need to maintain ILEC geographic rating information in CPP numbers and, as a result, this arrangement would likely improve number utilization overall. The reassignment of wireless phones to the CPP SACs would free up numbers in geographic area codes for reuse by wireline or other called-party-pays services. And since the CPP SAC would not contain geographic rate-center-defined NXXs, number utilization should be greater than in geographic NPAs, where fragmentation among numerous individual rate centers creates large quantities of "stranded" numbers in underutilized NXX codes that cannot be shifted to other rate centers.

Adoption of one or more CPP-specific SACs could fully address the Commission’s concern about billed party notification as it would serve to inform subscribers’ PBX and similar equipment that the number being called will involve

additional charges. Competition is not well-served if calls to CPP wireless phones are placed inadvertently simply because the caller was unable to identify the call as being subject to the additional charge. It would impose little additional burden upon PBX users, because virtually all PBXs currently in use possess the capability to perform 3-digit screening. It would conform the CPP arrangement in the U.S. to that which is used in every other country in which wireless CPP charging is in effect (*see* Section V below). And importantly, it would significantly reduce the potential costs and burdens that any other numbering solution would create.

V. FUNDAMENTAL DIFFERENCES BETWEEN WIRELESS SYSTEMS IN THE U.S. AND ABROAD MAKE IT IMPOSSIBLE TO APPLY INTERNATIONAL EXPERIENCE TO THE INTRODUCTION OF CPP IN THIS COUNTRY.

Certain wireless interests have asserted that CPP is responsible for the increased penetration of wireless calling abroad. This contention is unsupportable for two reasons: First, there are many factors other than CPP that all account for increased wireless service penetration in other countries; therefore, it would be unreasonable to isolate CPP as primary cause for such growth. Second, profound differences exist between the telecommunications environments in other countries and that of this country, and these differences have been far more influential than CPP in the growth of wireless service in other countries. Indeed, Ad Hoc and ACUTA have found no evidence to link the increased use of wireless phones in other countries to the existence of CPP

Consequently, and particularly in light of the potentially large costs to users that the introduction of CPP would engender, ti would be far more

productive for the Commission to focus on all of the underlying causes of increased wireless use abroad, rather than only on CPP, if its goal is to stimulate wireless usage in this country. If it does so, the Commission will be unable to conclude either that CPP has stimulated wireless usage overseas, or that it will do so in this country. Based upon available evidence concerning the international experience -- and particularly given the potentially large costs to users that the introduction of CPP would engender -- it would be far more productive for the Commission to focus its attention on the underlying causes of increased wireless use abroad than to.

A. Fundamental Differences Exist Between Wireless Systems in the U.S. and Those in Other Countries and Strongly Impact the Likely Success of CPP from the User's Standpoint.

As cautioned above, because of fundamental differences between wireless systems in the U.S. and in other countries, it is impossible to extrapolate reasonably from the international experience with CPP. These differences, encompass almost all aspects of the telecommunications service environment.

Of the many differences that exist between wireless systems here and abroad, perhaps the most significant in terms of CPP is in the area of numbering. Without exception, in other parts of the world, there exist specific access codes that readily identify wireless calls. In a survey of countries where CPP is in place, we found no country in which wireless numbers are not distinguishable from those of wireline numbers, as is the case in the U.S.

Table 1 below summarizes the dialing codes applicable to CPP calls in over twenty countries. As Table 1 demonstrates, in every case, clear and readily

identifiable numbering sequences for wireless phones (distinct from wireline) facilitate the application of additional, premium, or CPP charges.

Table 1. In Other Countries Distinct Numbering Codes for Wireless Phones

Country	Number Ranges
Argentina	prefix 15
Australia	14-15, 17-19, 407-419,
Belgium	0476-0478, 0485, 0495-0496, 075, 095-096
Cyprus	091, 095-096
Denmark	2, 30, 40, 50
Estonia	50-53, 55-56
France	0603, 0607-0618, 0660-0663, 0668, 0670, 0680-0689
Germany	0161, 0170-0179, 0700
Iceland	68-69, 89
Ireland	086-088
Israel	50-55
Italy	0320, 0328-0330, 0335-0339, 0347-0349, 0360, 0368
Japan	70, 90
Mexico	044
Netherlands	0620-0629, 0650-0655
New Zealand	21, 25, 29
Norway	90-99
Portugal	676, 931, 933, 936, 91990, 9676
Spain	6
Sweden	7017-7018, 702-709, 730, 736, 738-739
Switzerland	076-079
United Kingdom	02-09

Source: "International Dialling Codes." British Telecom Online. Access Date: 10 Sept. 99, <http://www1.btwebworld.com/interconnect>

For example, in Australia, wireless phone numbers are identified by only three sets of prefix codes (*i.e.*, 14-15, 17-19; or 407-419). Similarly, in Germany, three sets of prefix codes are used to identify wireless codes (0161, 0170-179, and 0700). In Argentina, where CPP was introduced in 1997, the prefix 15 is added to the wireless number, so the callers will easily identify calls to wireless phones.

In Switzerland, wireless phones are identified by dialing a two digit code, where the first digit is always a 7, and the second digit ranges from 6-9 depending on which of three wireless carriers is providing service. A similar system exists in Ireland, where wireless phones are distinguished from wireline by using a service-specific area code, the first two digits of which are 08, with the third digit being either 6,7,or 8 to designate a participating wireless service provider. In the United Kingdom, a large number of prefix codes are assigned to wireless phones. However, unlike in the U.S., wireless phones, along with all other numbers to which premium charges apply, are assigned in codes beginning with the digits 02 through 09. By contrast, all POTS phones in the U.K. are assigned in area codes beginning with the digits 01.

These distinct numbering systems - existent in other countries around the world, but not in the U.S. - accomplish two important objectives. First, they enable wireline users to readily determine when a wireless call charge will apply. Second, they enable customers to readily determine the specific charges that will apply. The information pages of local white pages telephone directories typically include wireline-to-wireless calling rates associated with specific wireless carriers, the identify of which can be clearly ascertained by the dialing code.

The ability to ascertain the wireless carrier is key to the provision of specific, accurate rate information to customers. This condition in turn is greatly facilitated by the existence of a relatively small number of wireless providers. As shown in the Table 2 below, the existence of a relatively small number of wireless providers is indeed typically the case in countries other than the U.S.

Table 2. Carriers in the U.S. and Other Countries				
Country	**Analogue Cellular Mobile**	**Digital Cellular Mobile**	**Other Mobile Communication (e.g. PCS, PCN, etc.)**	**Total [25]**
Australia	1	3	0	**4**
Austria	1	3	N/A	**4**
Belgium	1	2	0	**3**
Canada	10	10	12	**32**
Czech Republic	1	2	3	**6**
Denmark	1	4	3	**8**
Finland	1	2	28	**31**
France	2	3	3	**8**
Germany	1	4	31	**36**
Greece	N/A	3	N/A	**3**
Hungary	1	2	N/A	**3**
Ireland	1	2	N/A	**3**
Italy	1	2	N/A	**3**
Japan	18	30	32	**80**
Korea	1	2	10	**13**
Luxembourg	N/A	2	N/A	**2**
Mexico	9	2	8	**19**
Netherlands	1	6	2	**9**
Norway	1	2	N/A	**3**
New Zealand	1	2	0	**3**
Portugal	1	3	N/A	**4**
Spain	1	2	3	**6**
Sweden	1	4	N/A	**5**
Switzerland	1	3	N/A	**4**
Turkey	N/A	2	N/A	**2**
United Kingdom	2	4	20	**26**
United States	*	*	*	**976**
*No separate data given under these definitions				
Source: OECD Communications Outlook 1999 - Telecommmunications: Regulatory Issues, Downloaded September 9, 1999, <http://www.oecd.org/dsti/sti/index/html>				

[25] The total number of carriers for all countries, except the US, may be overstated due to the fact the data source does not provide information that aggregates the number of mobile carriers in each country. As a result, it is possible that service carriers may be counted more than once (*e.g.*, if they operate both analog and digital cellular networks), inflating the total number of carriers for the individual country.

As Table 2 shows, of the twenty-seven countries for which data was available, a majority (14) have five or fewer wireless carriers. Five countries have only slightly more than that (6-9 wireless carriers). Of the remaining six countries, Korea and Mexico have less than 20 wireless carriers. Canada, Finland, Germany, and the UK fall in the range of 20-40 wireless carriers, and Japan, has significantly more with 80 wireless carriers. By sharp contrast, the United States has almost 1,000 wireless providers - over 200 percent more carriers than all other surveyed countries combined.

From the perspective of CPP implementation, the significance of having readily identifiable numbering for wireless phones, in combination with the existence of relatively few wireless carrier, cannot be overstated. These conditions, along with several others found abroad but not here have encouraged the implementation of CPP with a truly informed customer base. Absent these conditions, it is likely that CPP arrangements would involve customers being misled into initiating calls that result in unexpected additional charges or that do not satisfy basic privity-of-contract requirements.[26]

B. The Existence in Other Countries of a Uniform, Message-Unit System of Pricing Applicable to Both Wireline and Wireless Calling Represents Another Fundamental Difference with the U.S.

Some of the other conditions typically existing in other countries, but absent in the U.S., and which facilitate CPP arrangements include a uniform "message-unit" system of pricing in which a set charge per unit applies for all

[26] *See supra,* Section II.B. An essential element of the privity requirement is that the billed party know the identity of the provider imposing each CPP charge. Such knowledge is necessary

calls, whether wireline-to-wireline, wireline-to-wireless, or long distance calling. (The set charge per unit varies according to the type of call, but the charge is set in accordance with a fixed schedule of charges.) Since there is very little if any "flat-rate" calling available in other countries, callers are used to paying an additional charge for every call they make, and with a uniform message-unit system, there is no more uncertainty as to the price of a CPP call than associated with any other type of call.

In addition, in other countries (but not in the U.S.) all calls to wireless phones generally carry the same charge to the calling party regardless of the location from which the CPP call has been placed. Due to the existence of distinctive, non-geographic numbering codes, in combination with national licensing, charges for domestic CPP calls do not contain any distance-sensitive element. So, typically a wireline caller will pay the same charge to reach a wireless phone anywhere in that country. By contrast, in the U.S., a wireline caller will also have to pay wireline local and long distance charges to the rate center to which the called wireless phone is assigned *over and above the CPP-related charge*.

Another related attribute of the telecommunications environment in other countries that facilitates CPP arrangements and that would not generally exist in the U.S. is the availability of "real time" charging. In other countries, for CPP calls originated from payphones and in other situations in which immediate identification of the call charges is needed (*e.g.*, from hotel PBXs), real time

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to allow billed parties to "vote with their feet," and to create competitive pricing pressures among CPP providers.

charging is accommodated by receipt of pulses from the central office for each message unit charge applicable to the various types of calls. Obviously, in the absence of distinct numbering for wireless phones, and a uniform message unit system of charging for calls to these phones, it would be very difficult, if not prohibitively expensive, to provide real-time pricing information to the caller. Yet, real-time charging information is vital to achieving truly informed consumers and if privity of contract concerns are to be fully addressed.

C. Increased Wireless Usage in Other Countries is Attributable to Many Factors That Are Much More Significant than Availability of CPP.

Among the myriad of factors responsible for increased wireless usage in other countries vis-à-vis the U.S., the availability of CPP is among the least significant.

In recent months, a number of articles have been written comparing and contrasting use of wireless phones in the U.S. versus other parts of the world.[27] Significantly, not one of these articles even mentions CPP, much less credits CPP with increased use of wireless phones outside the U.S. Rather, these articles emphasize that, unlike other countries, a number of competing and incompatible standards compete in the U.S. The lack of unified standards have not only limited customers' abilities to use wireless phones on a ubiquitous basis

[27] Edmund L. Andrews, New York Times, *Next Stage of the Cellular Tour, As Europe Zooms Ahead, United States Fiddles with Cellular Formats*, July 27, 1999, at CI; Sheryl WuDUNN, New York Times, *Next Stage of the Cellular Tour, Forced To Compete, Japan Becomes a Global Power*, July 27, 1999, at C1; Wall Street Journal, *CellPhones Finally Wise Up, Offering Users Smart New Features*, September 2, 1999, at B1; Marco R. della Cava, USA Today, *Wireless Nation: In this Technology-Driven Country, the Future is Now*, August 25, 1999, at A1.

throughout the country, but also have stymied innovation and the introduction of enhanced features that would stimulate usage.

For example, the adoption in Europe of a single, technical standard for digital cellular has been cited as making digital phones with built-in-paging and message functions some two years earlier than in the U.S.[28] Japan has had similar experiences to those of Europe.[29] For example, cell phones in Japan are being used "to buy and sell stocks, reserve tickets for trains and airplanes, transfer funds between bank accounts and send and receive text messages and simple drawings."[30] Finland, which has a mobile penetration rate of more than double that of the U.S.'s, is leading the market in mobile phone innovations. Today in Finland, mobile phones are used to store downloaded information from area service providers, purchase items and charge them to the customer's phone bill, and upload images from digital cameras.[31] New phones capable of supporting innovative applications such as these are just starting to surface in this country, and even so, the lack of uniform standards or interoperability among wireless systems is likely to limit their widespread utilization of these features and functions.[32]

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[28] Edmund L. Andrews, New York Times, *Next Stage of the Cellular Tour, As Europe Zooms Ahead, United States Fiddles with Cellular Formats*, July 27, 1999, at C1.

[29] Sheryl WuDUNN, New York Times, *Next Stage of the Cellular Tour, Forced to Compete, Japan Becomes a Global Power*, July 27, 1999, at C1.

[30] *Id.*

[31] Marco R. della Cava, USA Today, *Wireless Nation: In This Technology-Driven Country, the Future is Now*, August 25, 1999, at A1.

[32] Wall Street Journal, *CellPhones Finally Wise Up, Offering Users Smart New Features*, September 2, 1999, at B1.

Another significant explanatory factor behind the increased use of wireless phones in other countries vis-à-vis the U.S. is the far less extensive wireline penetration extant in other, less developed, foreign countries. For example, in many other countries, (*e.g.*, Mexico) residential wireline penetration rates are lower than in the U.S., and consumers often have to wait months or even years to have a wireline phone installed. For example, in Mexico, as of 1997, the number of telephone mainlines was a relatively low 96 lines per 1000 people, and the average waiting time for a telephone mainline was 0.8 years. By contrast, in the US, there were 644 telephone mainlines per thousand people, and no waiting time for installation. Similar figures exist for many developing countries.[33] The existence of unserved wireline demand often results in wireless services being used.

Although use of wireless services may be observed, this increased use exists totally independently of CPP. Accordingly, it would be inappropriate to attribute the increased use of wireless services to the existence of CPP, despite a superficial correlation between the two.

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[33] World Bank, *World Development Indicators 1999*, Table 5.11, 306-308 (April 26, 1999).

CONCLUSION

For the foregoing reasons, the Commission should adopt a Calling Party Pays service option only if it requires the assignment of a unique Service Access Code to wireless subscribers elect the CPP option, as well as meaningful verbal notification, including specific rate information, prior to commencement of charges for any call to a Calling Party Pays subscriber. In the alternative, the Commission should defer adoption of a Calling Party Pays service option pending further development of the record to obtain information on alternative safeguards to protect all consumers, including large users, against excessive and uncontrollable charges for calls to Calling Party Pays numbers.

Respectfully submitted,

AD HOC TELECOMMUNICATIONS USERS COMMITTEE

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Certificate of Service

I, Betsy M. Eisen, hereby certify that a true and correct copy of the preceding Joint Comments of the Ad Hoc Telecommunication Users Committee and ACUTA: The Association of Telecommunications Professionals in Higher Education was served this September 17, 1999 via hand delivery upon the following party:

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